

HOOPA TRIBAL NETTING ORDINANCE

ORDINANCE NO: 2-76

DATE APPROVED: September 16, 1976

Be it enacted by the Business Council of the Hoopa Valley Tribe acting in accordance with Article IX, Section I (e) of the Constitution and Bylaws of the Hoopa Valley Tribe in California the following:

SECTION 1: The following fishing practices are prohibited within the exterior boundaries of the Hoopa Indian Reservation. (12 mile square)

- A. Placing wire, boards or any other items in the river which result in complete blockage of the river.
- B. Placing any net which extends beyond 2/3 of the distance across the main stream of the river, and no net shall be placed in front of the mouth of a contributory stream.
- C. Gill nets must be lifted and removed from the river daily, and leaving salmon in nets during the day is prohibited.
- D. Taking fish for commerical purposes is prohibited.

SECTION 2, VIOLATIONS:

- A. Any violations of this ordinance shall be deemed a trespass on tribal lands whether committed by a member or non-member of the tribe, and in addition to any civil or criminal penalties set forth in Federal statutes for such trespass, violations of any of the foregoing rules shall be deemed just cause to confiscate all fish illegally taken, revoke, and cancel all fishing privileges of the offender and likewise seize all fishing gear and equipment of the offender pending further judicial determination of the matter.

SECTION 3, ENFORCEMENT:

- A. The Tribal Chairman is hereby directed to take any and all steps necessary to enforce this Ordinance including, but not limited to, requesting immediate involvement by the Bureau of Indian Affairs as trustee utilization of tribal employees to remove nets or structures which are in violation of this ordinance and the establishment of a procedure for appeal and hearing by the Tribal Council when requested by any violator herein.

- B. The Tribal Chairman is further instructed to seek full enforcement of applicable federal statutes by issuance of citations under the jurisdiction of the Federal District Court, Northern District of California.

C E R T I F I C A T I O N

I, the undersigned as Chairman of the Hoopa Valley Business Council do hereby certify that the Hoopa Valley Business Council is composed of eight members of which 7 were present duly constituting a quorum at a Regular Meeting thereof; duly and regularly called, noticed, convened, and held this 16th day of September, 1976, and this resolution was adopted by a vote of 6 for with 0 against and said Ordinance has not been recinded or amended in any way.

DATED THIS 16TH DAY OF SEPTEMBER, 1976

PETER H. MASTEN JR., CHAIRMAN
HOOPA VALLEY BUSINESS COUNCIL

ATTEST: _____
DEIRDRE R. YOUNG
EXECUTIVE SECRETARY
HOOPA VALLEY BUSINESS COUNCIL

**ORDINANCE OF THE HOOPA VALLEY TRIBE
HOOPA INDIAN RESERVATION
HOOPA, CALIFORNIA**

ORDINANCE NO. : 2-76, Amendment No. 2

DATE APPROVED: December 3, 1987

SUBJECT: Amendment No. 2 of Ordinance No. 2-76, Fishing Ordinance of the Hoopa Valley Tribe, Codified at Title VI, Chapter 1, of the Law and Order Code of the Hoopa Valley Tribe

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Section 1(e) of this Constitution and Bylaws authorizes the Hoopa Valley Business Council, "To enforce the protection of tribal property, wild life, and natural resources of the Hoopa Valley Tribe in accordance with a conservation ordinance . . ."; and

WHEREAS: Pursuant to the above cited provision of its Constitution and Bylaws, the Hoopa Valley Business Council did on September 23, 1985, enact Ordinance No. 2-76, Amendment No. 2, a comprehensive Fishing Ordinance asserting exclusive jurisdiction of the Hoopa Valley Tribe to regulate the exercise by its members of tribal fishing rights on the Hoopa Square; and

WHEREAS: Since the enactment of its Fishing Ordinance the Hoopa Valley Tribe has established a Tribal Court system, and certain provisions of the Fishing Ordinance have become obsolete or have been repealed; and

WHEREAS: There is a need to confirm established enforcement administrative procedures and to provide guidance to the Tribal Court regarding penalties for persons convicted of violating the Fishing Ordinance.

NOW THEREFORE BE IT RESOLVED THAT: The Hoopa Valley Business Council hereby adopts the following Amendment No. 2 to Ordinance No. 2-76, Fishing Ordinance of the Hoopa Valley Tribe, to confirm the repeal of certain obsolete provisions, to confirm established enforcement administrative procedures, and to provide guidance to the Tribal Court regarding penalties.

**AMENDMENT NO. 2 OF ORDINANCE NO. 2-76,
FISHING ORDINANCE OF THE HOOPA VALLEY TRIBE, CODIFIED AT
TITLE VI, CHAPTER I, OF THE LAW AND ORDER CODE OF
THE HOOPA VALLEY TRIBE**

Section (1) The Hoopa Valley Business Council hereby confirms that pursuant to Title I, Chapter 1, Section .06 of the Law and Order Code of the Hoopa Valley Tribe, Sections 12 and 14 of Ordinance No. 2-76, Amendment No. 1, have been repealed

Section (2) Ordinance No. 2-76, as amended, is codified at Title VI, Chapter 1, of the Law and Order Code of the Hoopa Valley Tribe. Repealed Sections 12 and 14 of Amendment No. 2 shall be deleted from Title VI, Chapter1, and Section 13, Amendments, of Amendment No. 1 shall be recodified as the new Section 12 of Title VI, Chapter 1.

Section (3) The following sections are hereby enacted; to be codified as Sections 13 and 14 of Title VI, Chapter 1:

Section 13 – Enforcement

- (a) Tribal Court: Members of the Hoopa Valley Tribe shall be subject to prosecution in the Hoopa Valley Tribal Court for violation of any provision of this Chapter or for violation of any annual, seasonal, and/or emergency regulation promulgated under Section (11) of this Chapter. The Tribal Court may issue any order it deems necessary to enforce a conviction. Any person convicted under this Chapter may appeal the conviction in accordance with Chapter 7, Title I of this Law and Order Code.
- (b) Citations: The Hoopa Valley Tribal Police are the tribal enforcement officers charged with enforcement of the provisions of this Chapter and any regulations promulgated thereunder. Tribal Police officers may issue citations to any member of the Hoopa Valley Tribe who the officer believes has committed a violation of any provision of this Chapter or of a regulation promulgated thereunder. Such citation shall state when and where the person is charged, and shall be forwarded in a timely manner to the Clerk of the Hoopa Valley Tribal Court.

Section 14 – Penalties

- (a) Persons convicted of violating a time closure or any other regulation promulgated under Section (11) of this Chapter may be subject to penalties set forth in the Tribal Resolution enacting the Section (11) regulation they have violated.

(b) Persons convicted of violating Sections 9(e), 10(a), and 10(b) of this Chapter, which prohibit commercial sales of fish and/or eels, shall be subject to the following maximum penalty:

- Not more than \$200.00 fine; or
- Forfeiture of fish or fishing gear; or
- Sixty (60) days suspension of fishing rights; or
- Any combination of the above deemed necessary or appropriate by the Tribal Court

Nothing in this subsection shall be construed to restrict the Court's discretion to impose less than the maximum penalty.

© Persons convicted of violating any other provision of this Chapter shall be subject to the following maximum penalty:

- Fine of \$50.00; or
- Forfeiture of fish or fishing gear; or
- Thirty (30) days suspension of fishing rights; or
- Any combination of the above deemed necessary or appropriate by the Tribal Court.

If a person is convicted more than twice during any three-year period of violating the same provision is penalized under this subsection, such person may, upon the third conviction, be subject to a maximum fine of \$100.00, forfeiture of fish or gear, or sixty (60) days suspension of fishing rights, or any combination suspension of fishing rights, and any combination thereof deemed necessary or appropriate by the Tribal Court. Nothing in this subsection shall be construed to restrict the Court's discretion to impose less than the maximum penalty.

(d) Any person who refuses or fails to obey a lawful order of the Tribal Court shall be fined not more than \$50.00 and/or suffer suspension of fishing rights for not more than thirty (30) days.

(e) Community Service. The Tribal Court may order community service work to be performed by any person convicted of violating any provision of this Chapter or any regulation promulgated thereunder. Such work may be ordered as an alternative to all or any part of the penalties which, in the absence of this subsection, otherwise would be imposed. As a guideline to the Tribal Court, one hour of such work should be valued at \$5.00.

CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Business Council, do hereby certify that the Hoopa Valley Business Council is composed of eight members of which 6 were present constituting a quorum at a Regular Meeting thereof; duly and regularly called, noticed, convened and held this 3rd day of December 1987; and that this ordinance was duly adopted by a vote of 5 for and 0 against; and that said resolution has not been rescinded or amended in any way.

DATED this 3rd day of December 1987.

Wilfred K. Colegrove, Chairman
Hoopa Valley Business Council

ATTEST:

Deirdre R. Young, Executive Secretary
Hoopa Valley Business Council

REGULATION # 2-76 NUMBER 1
MAY 27, 1986

Under the authority set out by the Fishing Ordinance of the Hoopa Valley Tribe No. 2-76 section 11 (a) the Hoopa Valley Business Council hereby adopts the following management regulations for the 1986 fishing season.

Fishing shall be open for all species of anadromous fish for the period from July 1, 1986 until December 1, 1986 for 7 days each week except that the fishery will be closed between the hours of 9:00 a.m. and 5:00 p.m., on Monday of each week, to retrieve lost and abandoned fishing gear.

All other parts of Ordinance 2-76 shall be in full force and effect.

Violations of this regulation and of Ordinance 2-76 shall be subject to adjudication in the Hoopa Tribal Court and penalties as set out in the Hoopa Tribal Law and Order Code.

Fishing before July 1, 1986 and after December 1, 1986 shall be open to all species with any gear except as prohibited under Ordinance 2-76.

This inseason regulation is designed to maximize fishing opportunity to members of the Hoopa Valley Tribe in accordance with the estimated harvest of 5,600 adult fall chinook salmon for the 1986 fishing season.

This regulation may be modified, as authorized under Section 11 (b) based on best scientific available data for conservation concerns.